

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

DEC 27 2005

BY: LUTHER THOMAS, Clerk
Deputy Clerk

BRIAN KEITH BARNETT,

Petitioner,

v.

INVESTIGATOR DONALD DUANE
BEIER, et al.,

Respondent.

CIVIL ACTION FILE

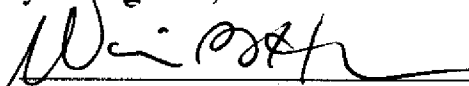
NO. 1:00-CV-391-WBH

ORDER

Before the Court is Petitioner's pro se notice of appeal [11], which is construed as a request for issuance of a certificate of appealability ("COA"). On June 26, 2000, the Court denied Petitioner's petition for writ of habeas corpus [6]. Nearly five years later, Petitioner moved to re-open his case, and the Court denied the motion on March 2, 2005 [8]. On November 17, 2005, Petitioner filed a Notice of Appeal [11].

Under the AEDPA, a petitioner must obtain a COA before he can appeal the denial of a habeas corpus petition. See 28 U.S.C. § 2253(c)(1)(A). If a prisoner chooses to file a notice of appeal, the district court must treat it as a request for a COA. A COA may issue only when the petitioner makes a "substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). In his notice of appeal, Petitioner raises no specific issues, merely requesting the right to appeal the dismissal of his case. It is evident that Petitioner has failed to demonstrate denial of a constitutional right, and for that reason, the Court declines to issue a COA. The motion is denied.

It is so ORDERED this 23rd day of December, 2005.


Willis B. Hunt, Jr.
Judge, United States District Court